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5  
6 Attorneys for Defendant  
RON SIN PHOTOCOPY, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

11 SECOND IMAGE, INC., a California corporation,

Plaintiff,

V.

1 RONSIN PHOTOCOPY, INC., a  
15 California corporation; CHRISTINA  
16 SANCHEZ, an individual; AND DOES 1-  
10.

17 Defendants.

CASE NO. C-07-05242-PJH

**DEFENDANT RONSIN PHOTOCOPY,  
INC.'S ANSWER TO FIRST AMENDED  
COMPLAINT**

[DEMAND FOR JURY TRIAL (Fed. R. Civ. P. 38)]

19 Defendant Ronsin Photocopy, Inc. ("Ronsin") hereby answers Plaintiff Second Image,  
20 Inc.'s First Amended Complaint:

21 1. Ronsin denies the allegations in Paragraph 1 of the First Amended Complaint

22 2. Ronsin is without knowledge or information sufficient to form a belief as to the  
23 truth of the allegations contained in Paragraph 2 of the First Amended Complaint and on that  
24 basis denies such allegations.

25 3. Ronsin admits that its clients are located throughout the United States and that it  
26 conducts business nationwide. Ronsin is without knowledge or information sufficient to form a  
27 belief as to the truth of the remaining allegations contained in Paragraph 3 of the First Amended  
28 Complaint and on that basis denies such allegations.

**SEDGWICK**  
DETERT, MORAN & ARNOLD, L.L.C.

1       4.     Ronsin is without knowledge or information sufficient to form a belief as to the  
2 truth of the allegations contained in Paragraph 4 of the First Amended Complaint and on that  
3 basis denies such allegations.

4       5.     Ronsin is without knowledge or information sufficient to form a belief as to the  
5 truth of the allegations contained in Paragraph 5 of the First Amended Complaint and on that  
6 basis denies such allegations.

7       6.     Ronsin is without knowledge or information sufficient to form a belief as to the  
8 truth of the allegations contained in Paragraph 6 of the First Amended Complaint and on that  
9 basis denies such allegations.

10      7.     Ronsin is without knowledge or information sufficient to form a belief as to the  
11 truth of the allegations contained in Paragraph 7 of the First Amended Complaint and on that  
12 basis denies such allegations.

13      8.     Ronsin admits allegations contained in Paragraph 8 of the First Amended  
14 Complaint.

15      9.     Ronsin is without knowledge or information sufficient to form a belief as to the  
16 truth of the allegations contained in Paragraph 9 of the First Amended Complaint and on that  
17 basis denies such allegations.

18      10.    Ronsin denies the allegations contained in Paragraph 10 of the First Amended  
19 Complaint.

20      11.    Ronsin denies the allegations contained in Paragraph 11 of the First Amended  
21 Complaint.

22      12.    Ronsin is without knowledge or information sufficient to form a belief as to the  
23 truth of the allegations contained in Paragraph 12 of the First Amended Complaint.

24      13.    Ronsin is without knowledge or information sufficient to form a belief as to the  
25 truth of the allegations contained in Paragraph 13 of the First Amended Complaint and on that  
26 basis denies such allegations.

27      14.    Ronsin is without knowledge or information sufficient to form a belief as to the  
28 truth of the allegations contained in Paragraph 14 of the First Amended Complaint and on that

1 basis denies such allegations.

2       15. Ronsin is without knowledge or information sufficient to form a belief as to the  
3 truth of the allegations contained in Paragraph 15 of the First Amended Complaint and on that  
4 basis denies such allegations.

5       16. Ronsin is without knowledge or information sufficient to form a belief as to the  
6 truth of the allegations contained in Paragraph 16 of the First Amended Complaint and on that  
7 basis denies such allegations.

8       17. Ronsin is without knowledge or information sufficient to form a belief as to the  
9 truth of the allegations contained in Paragraph 17 of the First Amended Complaint and on that  
10 basis denies such allegations.

11       18. Ronsin is without knowledge or information sufficient to form a belief as to the  
12 truth of the allegations contained in Paragraph 18 of the First Amended Complaint and on that  
13 basis denies such allegations.

14       19. Ronsin admits that it used a username and password provided to defendants  
15 Christina Sanchez to access Second Image, Inc.'s website. Except as expressly admitted, Ronsin  
16 denies the allegations in Paragraph 19 of the First Amended Complaint.

17       20. Ronsin denies the allegations contained in Paragraph 20 of the First Amended  
18 Complaint.

19       21. Ronsin denies the allegations contained in Paragraph 21 of the First Amended  
20 Complaint.

21       22. Ronsin denies the allegations contained in Paragraph 22 of the First Amended  
22 Complaint.

23       23. Ronsin denies the allegations contained in Paragraph 23 of the First Amended  
24 Complaint.

25       24. Ronsin incorporates by reference its responses to Paragraphs 1 through 24 of the  
26 First Amended Complaint.

27       25. Ronsin is without knowledge or information sufficient to form a belief as to the  
28 truth of the allegations contained in Paragraph 25 of the First Amended Complaint and on that

1 basis denies such allegations.

2 26. Ronsin denies the allegations contained in Paragraph 26 of the First Amended  
3 Complaint.

4 27. Ronsin denies the allegations contained in Paragraph 27 of the First Amended  
5 Complaint.

6 28. Ronsin denies the allegations contained in Paragraph 28 of the First Amended  
7 Complaint.

8 29. Ronsin denies the allegations contained in Paragraph 29 of the First Amended  
9 Complaint.

10 30. Ronsin incorporates by reference its responses to Paragraphs 1 through 29 of the  
11 First Amended Complaint.

12 31. Ronsin denies the allegations contained in Paragraph 31 of the First Amended  
13 Complaint.

14 32. Ronsin denies the allegations contained in Paragraph 32 of the First Amended  
15 Complaint.

16 33. Ronsin denies the allegations contained in Paragraph 33 of the First Amended  
17 Complaint.

18 34. Ronsin denies the allegations contained in Paragraph 34 of the First Amended  
19 Complaint.

20 35. Ronsin denies the allegations contained in Paragraph 35 of the First Amended  
21 Complaint.

22 36. Ronsin denies the allegations contained in Paragraph 36 of the First Amended  
23 Complaint.

24 37. Ronsin denies the allegations contained in Paragraph 37 of the First Amended  
25 Complaint.

26 38. Ronsin incorporates by reference its responses to Paragraphs 1 through 37 of the  
27 First Amended Complaint.

28 39. Ronsin denies the allegations contained in Paragraph 39 of the First Amended

1 Complaint.

2 40. Ronsin admits that it conducts business nationwide and services clients  
3 throughout the United States. Except as expressly admitted, denies the allegations contained in  
4 Paragraph 40 of the First Amended Complaint.

5 41. Ronsin denies the allegations contained in Paragraph 41 of the First Amended  
6 Complaint.

7 42. Ronsin denies that plaintiff is entitled to any remedy at law or equity, and on that  
8 basis denies the allegations in Paragraph 42 of the First Amended Complaint.

9 43. Ronsin incorporates by reference its responses to Paragraphs 1 through 43 of the  
10 First Amended Complaint.

11 44. Ronsin denies the allegations contained in Paragraph 44 of the First Amended  
12 Complaint.

13 45. Ronsin denies the allegations contained in Paragraph 45 of the First Amended  
14 Complaint.

15 46. Ronsin denies the allegations contained in Paragraph 46 of the First Amended  
16 Complaint.

17 47. Ronsin denies that plaintiff is entitled to any remedy at law or equity, and on that  
18 basis denies the allegations in Paragraph 47.

19 48. Ronsin incorporates by reference its responses to Paragraphs 1 through 47 of the  
20 First Amended Complaint.

21 49. Ronsin denies the allegations contained in Paragraph 49 of the First Amended  
22 Complaint.

23 50. Ronsin denies the allegations contained in Paragraph 50 of the First Amended  
24 Complaint.

25 51. Ronsin denies the allegations contained in Paragraph 51 of the First Amended  
26 Complaint.

27 52. Ronsin denies that plaintiff is entitled to any remedy at law or equity, and on that  
28 basis denies the allegations in Paragraph 52 of the First Amended Complaint.

1       53.    Ronsin incorporates by reference its responses to Paragraphs 1 through 52 of the  
2 First Amended Complaint.

3       54.    Ronsin denies the allegations contained in Paragraph 54 of the First Amended  
4 Complaint.

5       55.    Ronsin denies the allegations contained in Paragraph 55 of the First Amended  
6 Complaint.

7       56.    Ronsin denies the allegations contained in Paragraph 56 of the First Amended  
8 Complaint.

9       57.    Ronsin denies the allegations contained in Paragraph 57 of the First Amended  
10 Complaint.

11       58.    Ronsin denies the allegations contained in Paragraph 58 of the First Amended  
12 Complaint.

13       59.    Ronsin denies the allegations contained in Paragraph 59 of the First Amended  
14 Complaint.

15       60.    Ronsin denies the allegations contained in Paragraph 60 of the First Amended  
16 Complaint.

17       61.    Ronsin denies the allegations contained in Paragraph 61 of the First Amended  
18 Complaint.

19       62.    Ronsin denies that plaintiff is entitled to any remedy at law or equity, and on that  
20 basis denies the allegations in Paragraph 62 of the First Amended Complaint.

21       63.    Ronsin incorporates by reference its responses to Paragraphs 1 through 63 of the  
22 First Amended Complaint.

23       64.    Ronsin denies the allegations contained in Paragraph 64 of the First Amended  
24 Complaint.

25       65.    Ronsin denies the allegations contained in Paragraph 65 of the First Amended  
26 Complaint.

27       66.    Ronsin denies the allegations contained in Paragraph 66 of the First Amended  
28 Complaint.

1 67. Ronsin denies the allegations contained in Paragraph 67 of the First Amended  
2 Complaint.

3 68. Ronsin denies that plaintiff is entitled to any remedy at law or equity, and on that  
4 basis denies the allegations in Paragraph 68 of the First Amended Complaint.

5 69. Ronsin incorporates by reference its responses to Paragraphs 1 through 68 of the  
6 First Amended Complaint.

7 70. Ronsin denies the allegations contained in Paragraph 70 of the First Amended  
8 Complaint.

9       71. Ronsin denies the allegations contained in Paragraph 71 of the First Amended  
10 Complaint.

11 72. Ronsin denies that plaintiff is entitled to any remedy at law or equity, and on that  
12 basis denies the allegations in Paragraph 72 of the First Amended Complaint.

13       73.     Ronsin incorporates by reference its responses to Paragraphs 1 through 72 of the  
14 First Amended Complaint.

15 74. Ronsin denies the allegations contained in Paragraph 74 of the First Amended  
16 Complaint.

17 75. Ronsin denies the allegations contained in Paragraph 75 of the First Amended  
18 Complaint.

19       76. Ronsin denies the allegations contained in Paragraph 76 of the First Amended  
20 Complaint.

21 77. Ronsin denies that plaintiff is entitled to any remedy at law or equity, and on that  
22 basis denies the allegations in Paragraph 77 of the First Amended Complaint.

## PRAYER FOR RELIEF

24 1. In answer to the prayer for relief, Paragraph 1, Ronsin denies that plaintiff is  
25 entitled to such relief.

26       2.     In answer to the prayer for relief, Paragraph 2, Ronsin denies that plaintiff is  
27     entitled to such relief.

3. In answer to the prayer for relief, Paragraph 3, Ronsin denies that plaintiff is

1 entitled to such relief.

2 4. In answer to the prayer for relief, Paragraph 4, Ronsin denies that plaintiff is  
 3 entitled to such relief.

4 5. In answer to the prayer for relief, Paragraph 5, Ronsin denies that plaintiff is  
 5 entitled to such relief.

6 6. In answer to the prayer for relief, Paragraph 6, Ronsin denies that plaintiff is  
 7 entitled to such relief.

8 7. In answer to the prayer for relief, Paragraph 7, Ronsin denies that plaintiff is  
 9 entitled to such relief.

10 **AFFIRMATIVE DEFENSES**

11 **FIRST AFFIRMATIVE DEFENSE**

12 The First Amended Complaint does not state facts sufficient to constitute a cause  
 13 of action against Ronsin.

14 **SECOND AFFIRMATIVE DEFENSE**

15 Plaintiff failed to mitigate its damages.

16 **THIRD AFFIRMATIVE DEFENSE**

17 The statements or representations made by Ronsin, if any, alleged in the First  
 18 Amended Complaint were true when made.

19 **FOURTH AFFIRMATIVE DEFENSE**

20 Plaintiff consented to and approved the acts and omissions about which plaintiff  
 21 now complains, and the claims, if any, set forth in the First Amended Complaint herein are  
 22 barred.

23 **FIFTH AFFIRMATIVE DEFENSE**

24 The claims, if any, set forth in the First Amended Complaint herein are barred by  
 25 the doctrine of laches.

26 **SIXTH AFFIRMATIVE DEFENSE**

27 The damages complained of by Plaintiff, if any there were, were caused by the  
 28 acts or omissions of Plaintiff.

SEVENTH AFFIRMATIVE DEFENSE

The claims, if any, set forth in the First Amended Complaint herein are barred by the doctrine of waiver.

EIGHTH AFFIRMATIVE DEFENSE

The claims, if any, set forth in the First Amended Complaint herein are barred by the doctrine of estoppel.

NINTH AFFIRMATIVE DEFENSE

The claims, if any, set forth in the First Amended Complaint herein are barred by the doctrine of unclean hands.

TENTH AFFIRMATIVE DEFENSE

The damages complained of by Plaintiff, if any there were, were caused by the acts or omissions of others, including persons not parties herein.

ELEVENTH AFFIRMATIVE DEFENSE

The damages complained of by Plaintiff, if any there were, were caused and contributed to by the Plaintiff's own assumption of the risk.

TWELFTH AFFIRMATIVE DEFENSE

Ronsin fully and completely fulfilled its duties, if any, to Plaintiff and exercised proper care and skill in doing so.

THIRTEENTH AFFIRMATIVE DEFENSE

Any statements, representations, action or inaction by Ronsin with respect to the allegations contained in the Complaint were justified and/or privileged.

FOURTEENTH AFFIRMATIVE DEFENSE

The First Amended Complaint, to the extent that it seeks punitive or exemplary damages against Defendants, violates Defendants' right to protection from "excessive" fines as provides in the Eighth Amendment to the United States Constitution and the Constitution of the State of California and violates Defendants' right to substantive due process and equal protection as provided in the Fifth and Fourteenth Amendments to the United States Constitution and the Constitution of the State of California, does not meet the tests for allowing punitive damages set

1 forth by the United States Supreme Court in BMW v. Gore, 517 U.S. 559, 116 S.Ct. 1589 (1996)  
 2 and State Farm Ins. Co. v. Campbell, 538 U.S. 408; 123 S.Ct. 1513, 1521; 155 L.Ed. 2d 585  
 3 (2003), and other cases, and therefore fails to state a claim supporting the punitive or exemplary  
 4 damages claimed.

5 WHEREFORE, defendant Ronsin prays that:

6 (a) Plaintiff take nothing by way of the First Amended Complaint;  
 7 (b) Ronsin be awarded costs of suit herein; and  
 8 (c) For such other and further relief as the Court deems just.

9 DATED: March 10, 2008 SEDGWICK, DETERT, MORAN & ARNOLD LLP

10  
 11 By: /s/  
 12 AMBER RYE BRUMFIEL  
 13 Attorneys for Defendant RONSIN PHOTOCOPY, INC.

14 DEMAND FOR JURY TRIAL

15 Pursuant to Rule 38 of the Federal Rule of Civil Procedure, defendant Ronsin Photocopy,  
 16 Inc. hereby demands a trial by jury.

17 SEDGWICK, DETERT, MORAN & ARNOLD LLP

18  
 19 By: /s/  
 20 AMBER RYE BRUMFIEL  
 21 Attorneys for Defendant RONSIN PHOTOCOPY, INC.

1 *Second Image, Inc. v. Ronsin Photocopy, et al.*  
 2 USDC, Northern District Court of California, Case No. C-07-05242-PJH

3 **PROOF OF SERVICE**

4 I am a resident of the State of California, over the age of eighteen years, and not a party to  
 5 the within action. My business address is Sedgwick, Detert, Moran & Arnold LLP, One Market  
 Plaza, Steuart Tower, 8th Floor, San Francisco, California 94105. On March 10, 2008, I served  
 the within document(s):

6 **DEFENDANT RONSIN PHOTOCOPY INC.'S ANSWER TO FIRST  
 7 AMENDED COMPLAINT**

8  FACSIMILE - by transmitting via facsimile the document(s) listed above to the  
 9 fax number(s) set forth on the attached Telecommunications Cover Page(s) on this  
 date before 5:00 p.m.

10  MAIL - by placing the document(s) listed above in a sealed envelope with postage  
 thereon fully prepaid, in the United States mail at San Francisco, California  
 addressed as set forth below.

11  PERSONAL SERVICE - by personally delivering the document(s) listed above to  
 12 the person(s) at the address(es) set forth below.

13  OVERNIGHT COURIER - by placing the document(s) listed above in a sealed  
 envelope with shipping prepaid, and depositing in a collection box for next day  
 14 delivery to the person(s) at the address(es) set forth below via .

15 Karl S. Kronenberger, Esq.  
 16 Henry M. Burgoyne, III, Esq.  
 17 Deepa Krishnan, Esq.  
 18 Kronenberger Burgoyne, LLP  
 19 150 Post Street, Suite 520  
 20 San Francisco, CA 94108  
 21 Telephone: (415) 955-1155  
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23 Attorneys For Plaintiff

24 Dennis F. Moriarty, Esq.  
 25 Stephen L. Dahmm Esq.  
 26 Cesari Werner and Moriarty  
 27 360 Post Street, 5th Floor  
 San Francisco, CA 94108  
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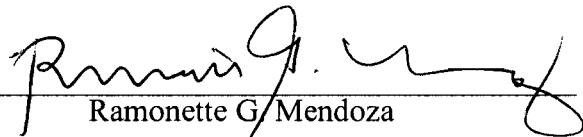
28 Attorneys for Defendant Christina Sanchez

29 I am readily familiar with the firm's practice of collection and processing correspondence  
 30 for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same  
 31 day with postage thereon fully prepaid in the ordinary course of business. I am aware that on  
 32 motion of the party served, service is presumed invalid if postal cancellation date or postage  
 33 meter date is more than one day after date of deposit for mailing in affidavit.

1 *Second Image, Inc. v. Ronsin Photocopy, et al.*  
2 USDC, Northern District Court of California, Case No. C-07-05242-PJH

3 I declare that I am employed in the office of a member of the bar of this court at whose  
4 direction the service was made.

5 Executed on March 10, 2008, at San Francisco, California.

6   
7 Ramonette G. Mendoza

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